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REMARKS

This communication after final is in response to the Final Office Action dated September 10, 2004, wherein claims 1, 2, 4-5, 10-11, and 13-14 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. 5,935,162 to Dang; claims 8, 9 and 17 were rejected under 35 U.S.C. §103(a) as being obvious over Dang in view of U.S. 6,019,789 to Dinh et al (Dinh); and claims 18-22 were rejected under 35 U.S.C. 103(a) as being obvious over Dinh in view of Dang..

The following comments are presented with the same section headings and in the same order as the Office Action.

Claim Rejections – 35 U.S.C. §102

In the Office Action claims 1, 2, 4, 5, 10, 11, 13 and 14 were rejected under §102(b) as being anticipated by Dang.

In regard to claim 1 and those claims depending therefrom, Applicants respectfully assert that the Dang reference does not teach or suggest all of the elements of the instant claims.

In instant claim 1 the claim recites that the stent comprises a plurality of axially spaced serpentine bands and a plurality of wishbone connectors. Each band is *consists* of a plurality of interconnected struts of substantially the same length. Each wishbone connector has an elongate portion which is disposed between the two adjacent serpentine bands which it connects. The elongate portion however *does not overlap longitudinally* with either of the two serpentine bands. The elongate portion of each wishbone connector has a proximal end with two legs extending therefrom to one of the serpentine bands, and a distal end with two legs extending therefrom to the other of the serpentine bands. The two legs extending from the proximal end of the elongate portion are *circumferentially and longitudinally* displaced from the two legs extending from the distal end of the elongate portion.

In the Office Action the Examiner provided an interpretation of FIG. 2 of Dang wherein each band was shown *comprising* struts of substantially the same length (see the attached page). In the Examiner's interpretation the struts of each band are interconnected via the 'legs' of the wishbone connector. Thus, in the stent of Dang, the bands cannot be said to

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consist of a plurality of interconnected struts of substantially the same length, as the instant claims recite because the bands also must include the structure of the legs of the wishbone connectors in order for adjacent struts of the same band to interconnect.

The Dang stent also fails to include wishbone connectors that have elongate portions, which *do not overlap longitudinally* with either of the two serpentine bands which it connects as the present claims describe. As shown in FIG. 2 of Dang each of the bands connected by a wishbone connector longitudinally overlap the elongate portion of the connector in contrast to the recitation of the instant claims.

In addition to the above, Dang does not teach or suggest a stent having wishbone connectors wherein the two legs extending from the proximal end of the elongate portion are *circumferentially and longitudinally* displaced from the two legs extending from the distal end of the elongate portion as the instant claims recite. In the enclosed version of FIG. 2, the legs extending from the proximal end of the elongate portion of a given wishbone connector are only longitudinally offset from the legs extending from the distal end of the elongate connector but *not* circumferentially offset.

Turning now to instant claim 10, and those claims depending therefrom, instant claim 10 also describes a stent having a plurality of wishbone connectors, wherein the elongate portion of a connector, which is disposed between two serpentine bands *does not overlap longitudinally* with either of the two serpentine bands. As discussed above, in the stent of Dang each of the bands connected by a wishbone connector longitudinally overlap the elongate portion of the connector in contrast to the recitation of the instant claims.

Instant claim 10 also describes that the two legs extending from the proximal end of the elongate portion are *circumferentially and longitudinally* displaced from the two legs extending from the distal end of the elongate portion. As discussed above, Dang fails to disclose such a relationship between the legs at the opposing ends of the elongate connectors.

Thus, because Dang fails to teach or suggest all of the elements of the instant claims the rejection is respectfully traversed.

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Claim Rejections – 35 U.S.C. §103

Claims 8, 9 & 17

In the Office Action claims 8, 9 and 17 were rejected under §103(a) as being obvious over Dang in view of Dinh.

In the Office Action, Dinh is cited to provide the stated peak to wishbone ratio of instant claims 8 and 17 as well as the provision of bands having a width which exceeds the width of the wishbone connectors, as described in instant claim 9. The proposed inclusion of the selected elements of Dinh however, does nothing to address the failure of Dang to teach or suggest all of the elements of the instant claims. Even if the elements identified in Dinh are combined with Dang, the resulting hybrid device will fail to teach or suggest all of the elements of the instant claims.

As discussed above, Dang does not teach or suggest a wishbone connector wherein the two legs extending from the proximal end of the elongate portion are *circumferentially and longitudinally* displaced from the two legs extending from the distal end of the elongate portion, and wherein the elongate portion of a connector, which is disposed between two serpentine bands *does not overlap longitudinally* with either of the two serpentine bands. Dinh also fails to teach or suggest a stent having such features. Thus, even if some motivation can be found to combine the references in the manner proposed in the Office Action, such a combination does not address the failure of Dang alone to teach or suggest all of the elements of the instant claims. Consequently, the rejection is respectfully traversed.

Claims 18-22

In the Office Action claims 18-22 were rejected under §103(a) as being obvious over Dinh in view of Dang.

In the previous Amendment Applicants addressed this rejection by arguing that there is insufficient motivation to combine the references and that even if motivation to combine could be found the proposed combination would require significant and possibly detrimental modification to at least the stent of Dinh if the connectors and 'second' serpentine band of Dinh were replaced with the offset connectors shown in FIG. 7 of Dang.

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While Applicants continue to assert these arguments, it must also be pointed out that the proposed hybrid of Dang's offset connectors and the stent shown in FIG. 6C of Dinh will not result in a stent having all of the features recited in the instant claims.

In the Examiner's interpretation of FIG. 6c of Dinh, the "second serpentine band" is identified as feature 178 of Dinh, a portion of which the Examiner highlighted in orange. As shown in the enclosed copy of the Examiner's interpretation of the Dinh stent, extending from the respective ends of the highlighted "second serpentine band" are the two or more "first connectors" and the two or more "second connectors". What is noteworthy however is that in this interpretation it is impossible for the "second serpentine band" as shown in FIG. 6C of Dinh to be "serpentine" or even a "band" as recited in the instant claims. The orange highlighted portion of the Examiner's annotated copy of FIG. 6C is of Dinh is merely a "connecting segment" having a "large loop" configuration (column 7, lines 21-27) Dinh does not teach or suggest that such a segment could be part of a *band*, and such a segment clearly is not *serpentine* as the instant claims require.

Thus, while there is insufficient motivation to combine the references, Applicants assert that regardless of any motivation to combine, the proposed combination of references does not teach or suggest all of the elements of the instant claims. Furthermore, as has been previously argued, the attempt to combine the references in the manner asserted in the Office Action would result in a hybrid that would be detrimental to the devices of one or both references. For at least these reasons the rejection is respectfully traversed.

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CONCLUSION

The present Application, with claims 1, 2, 4, 5, 8-11, 13, 14, and 17-22 is believed to be in condition for allowance. As such, Applicants respectfully request reconsideration of the Final Rejection.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: 12/2/04

By: _____

James M. Urzedowski
Registration No.: 48596

6109 Blue Circle Drive, Suite 2000
Minnetonka, MN 55343-9185
Telephone: (952) 563-3000
Facsimile: (952) 563-3001

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